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CARRIERS : PASSENGERS — WHO ARE PASSENGERS — GRATUITOUS CARRIAGE BY CUSTOM: EFFECT OF VIOLATION OF STATUTE AGAINST FREE TRANSPORTATION. — The plaintiff's intestate was an employee of a lumber company and was killed by a falling log while riding on the defendant's logging branch railroad, which the defendant held out for the carriage of passengers. There was a custom by which conductors carried lumbermen like the plaintiff's intestate gratuitously, both sides erroneously believing that it was in accordance with a contract with the lumber company. By statute, gratuitous carriage was made a misdemeanor in both carrier and passenger. *Held*, that the plaintiff cannot recover. *Van Auken v. Michigan Central R. Co.*, 148 N. W. 819 (Mich.).

A person who tenders himself as a passenger and is accepted as such by the carrier, thereupon becomes a passenger. *Merrill v. Eastern R. Co.*, 139 Mass. 238, 239. See 19 HARV. L. REV. 250. The mere fact that the carriage is gratuitous does not negative this relation. *Philadelphia R. Co. v. Derby*, 14 How. (U. S.) 468. Nor is it important that the acceptance is by custom only, and contrary to the company's private orders, so long as it is within the apparent authority of the conductor. *Waterbury v. New York Central & H. R. R. Co.*, 17 Fed. 671. Aside from the statute prohibiting gratuitous carriage, therefore, there seems to be no doubt that the relation of passenger and carrier arose in the principal case. In view of the arrangement believed to exist between the railroad and the lumber company, this statute carried no effective notice of a limitation on the conductor's authority. Nor did it deprive the passenger of the protection to which he was entitled by the law of public service. *Southern Pacific Ry. Co. v. Schuyler*, 227 U. S. 601. It is well settled that the carriers cannot defeat recovery on the ground that the passenger was riding in violation of the law. *Carroll v. Staten Island R. Co.*, 58 N. Y. 126. And it would seem to follow that the railroad is not in a more advantageous position when both parties have violated a statute fixing a punishment of its own, without reference to the civil rights of the passenger. *Southern Pacific Ry. Co. v. Schuyler*, *supra*.

CONSTITUTIONAL LAW — PRIVILEGES, IMMUNITIES, AND CLASS LEGISLATION — RIGHT OF STATE TO EXPEL FOREIGN CORPORATION FOR EXERCISE OF CONSTITUTIONAL PRIVILEGE. — Plaintiff, a foreign corporation, took out a license to do local business in Wisconsin, and acting thereunder acquired valuable property within the jurisdiction. Subsequently it was enacted that the local license of a foreign corporation should be revoked if it removed any suit against a citizen of the state from the state to the federal courts. The act also provided for annual reports in which the corporation should agree to obey the laws of the state. Having removed a cause against a citizen of Wisconsin from a state to a federal court, the secretary of state threatened to revoke its local license. *Held*, that the statute is unconstitutional and the revocation will be enjoined. *Western Union Telegraph Co. v. Frear*, 216 Fed. 199 (Dist. Ct., W. D., Wis.).

An Arkansas statute provided for the licensing of foreign corporations to do business within the state, but provided that the license should be revoked if the corporation should invoke the jurisdiction of the federal courts in a cause against a citizen of Arkansas. A foreign corporation procured such a license, and acting thereunder acquired valuable mining property within the jurisdiction. Upon the corporation's removing a cause to the federal court, the secretary of state cancelled its license. *Held*, that the act is constitutional and that mandamus will not lie to compel the revocation of the cancellation. *State, ex rel. Kimberlite Mining & Washing Co. v. Hodges*, 169 S. W. 942 (Ark.).

For a discussion of the extent of a state's right to use its power over foreign corporations to impair indirectly the jurisdiction of the federal courts, see NOTES, p. 305.